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MAY 3 0 2002

DIRECTOR OFFICE
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In re Application of
Sakaegi
Application No. 08/579,739
Filed: December 28, 1995
Attorney Docket No.: 35.C11122
For: COMPUTER PERIPHERAL APPARATUS
WITH POWER SUPPLY CONTROL

DECISION ON PETITION

This is a decision in response to the petition filed February 28, 2002, to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

The application was held abandoned July 10, 2001 for failure to timely reply to the non-final Office action mailed April 9, 2001. The non-final Office action set a three (3) month shortened statutory period of time for reply. Notice of Abandonment was mailed February 8, 2002.

Petitioner asserts non-receipt of the non-final Office action.

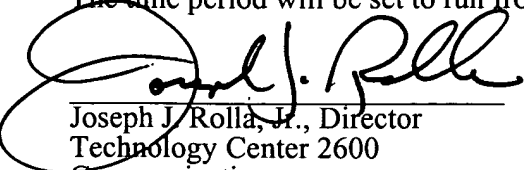
In the absence of any irregularity in the mailing of the non-Final Office Action, there is a strong presumption that the non-Final Office Action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-Final Office Action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Office records indicate the non-Final Office Action was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the non-Final Office Action on the part of the United States Patent and Trademark Office.

In support of the petition, petitioner has provided a copy of the docket record where the non-Final Office Action would have been entered had it been received along with a statement from practitioner that a search of the docket record and file jacket indicated that the non-Final Office Action was not received.

Accordingly, the Notice of Abandonment is hereby **VACATED** and the Notice of Abandonment is **WITHDRAWN**.

A significant amount of time has lapsed since the mailing of the Office action of April 9, 2001 and the mailing of this decision. Accordingly, the file is being forwarded to the examiner for further consideration and for updating the search as appropriate. From there, the file will be forwarded to the Technology Center's technical support staff for processing and mailing of the new Office action. The time period will be set to run from the date the new Office action is mailed.


Joseph J. Rolla, Jr., Director
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Communications